

CHAPTER 3-06 FACTORS

3-06-01. Definition. A factor is an agent who, in the pursuit of an independent calling, is employed by another to buy or sell property in his own name and is entrusted by his principal with the possession or control of the property or authorized to receive payment therefor from the purchaser.

3-06-02. Authority of factors. In addition to the authority of agents in general, a factor has actual authority from his principal unless specially restricted:

1. To insure property consigned to him uninsured.
2. To sell property consigned to him on such credit as is usual, except such things as it is contrary to usage to sell on credit, but having once agreed with the purchaser upon the terms of credit, a factor may not extend it, nor may he pledge, mortgage, or barter the property so consigned.
3. To delegate his authority to his partner or servant, but not to any person in an independent employment.

3-06-03. Ostensible authority of factor. A factor has ostensible authority to deal with the property of his principal as his own in transactions with persons not having notice of the actual ownership.

3-06-04. Must obey instructions - Exception. A factor must obey instructions of his principal to the same extent as any other employee, notwithstanding any advances he may have made to his principal upon the property consigned to him, except that if the principal forbids him to sell at the market price, he nevertheless may sell for his reimbursement after giving to his principal reasonable notice of his intention to do so and of the time and place of sale, and proceeding in all respects as a pledgee.

3-06-05. Liability under guaranty commission. A factor who charges his principal with a guaranty commission upon a sale thereby assumes absolutely to pay the price when it falls due as if it were a debt of his own and not as a mere guarantor for the purchaser, but he does not thereby assume any additional responsibility for the safety of his remittance of the proceeds.

3-06-06. Relieved of liability by consent only. A factor who receives property for sale under a general agreement or usage to guarantee the sale or the remittance of the proceeds cannot relieve himself from responsibility therefor without the consent of his principal.